S. HRG. 98-767

NOMINATIONS—DEPARTMENT OF COMMERCE

HEARING

BEFORE THE

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

NOMINATIONS OF

SIDNEY JONES, TO BE UNDER SECRETARY OF COMMERCE FOR ECONOMIC AFFAIRS; AND IRVING PHILLIP MARGULIES, TO BE GENERAL COUNSEL, DEPARTMENT OF COMMERCE

MARCH 6, 1984

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NOMINATIONS—DEPARTMENT OF COMMERCE

TUESDAY, MARCH 6, 1984

U.S. SENATE,
COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION,
Washington, D.C.

The committee met, pursuant to notice, at 2:05 p.m., in room SR-254, Russell Senate Office Building, Hon. Larry Pressler presiding.

Staff members assigned to this hearing: Dennis Phelan, Charlie Faust, and Marguerite Ayers, professional staff members; and Liz Tankersley, minority staff counsel.

OPENING STATEMENT BY SENATOR PRESSLER

Senator PRESSLER. The hearing will come to order.

This is a nomination hearing of Sidney Jones and Irving Margulies.

Why don't you two gentlemen come forward and sit down, make yourselves comfortable, and we will get started. I have some statements here. But I want to welcome you here to this hearing before the Senate Committee on Commerce, Science, and Transportation. We are here to consider nominations for two positions within the Department of Commerce.

With us are Dr. Sidney Jones, nominated as Under Secretary of Commerce for Economic Affairs; and Mr. Irving Margulies, nominated as the Department's General Counsel.

The committee will consider these nominations one at a time beginning with any statement each nominee would like to make, followed by a number of questions I have for each. I understand also that the minority has submitted some written questions which will be answered for the hearing record.

As Chairman of the Subcommittee on Business, Trade, and Tourism, I have a great interest in economic policies and functions of the Commerce Department. My colleagues on the committee and I recognized the importance of this area 2 years ago when legislation was reported to upgrade this position from Assistant Secretary to Under Secretary for Economic Affairs.

But as a Senator from the State of South Dakota, I am especially interested in your perception of, and impact upon, rural State economies. I think that the special characteristics and problems of rural economies are too often overlooked when the criteria for these economic studies are established, and when the data is collected and analyzed. A good example of that is in the employment area. The State of South Dakota is rated as having one of the lowest unemployment rates in the Nation. That sounds great, but the problems of underemployment are often overlooked. One prob-

lem this creates is that rural States like South Dakota are passed over when it comes time to distribute economic development funds.

For example, South Dakota was one of the only States in the Union that didn't receive any EDA [Economic Development Act] funds when that act was recently implemented, because these types of economic problems were not addressed in the study.

Rural America and small businesses are too often forgotten in the conference rooms of Washington. That is why I am pleased that just last week we were successful in gaining passage of a Senate amendment to fill the next vacancy on the Federal Reserve Board with someone from an agricultural or small business background.

The health and development of our economy will continue to be of critical importance during the next few years, and the Federal Government will need to address the concerns of the private sector. To this end, we must understand the needs of business—both large and small, the implications of economic data, and the effects of economic policy. This responsibility rests largely with the Under Secretary for Economic Affairs. So with that, I will call on Mr. Jones to make his opening statement and thank you again for being here today.

Mr. Jones.

STATEMENT OF SIDNEY JONES

Mr. JONES. I do not have a statement, Senator.

Senator PRESSLER. All right. I have a letter from Senator Garn. He has submitted this letter in support of Sidney Jones' nomination. And also, Senator Mathias has submitted a statement. I will make them part of the record.

[The biographical sketch and material referred to follow:]

BIOGRAPHICAL SKETCH OF SIDNEY LEWIS JONES

Address: 8505 Parliament Drive, Potomac, Maryland 20854.
Date and place of birth: September 23, 1933; Ogden, Utah.
Marital status: Married, Marlene Stewart.
Names and ages of children: Randall S. 28; Stanna, 26; Bryan L., 22; Blake S., 18; Allyson, 13.

Education

Utah State University, 1951–1954; B.S., June 1954.
Stanford University, 1956–1958; M.B.A. June 1958.
Stanford University, 1958–1960; Ph.D., June 1960.

Employment record

a. 1st Lt.; United States Army; Ft. Lee, Virginia and Sierra Ordnance Deport, Herlong, California; August 1954 to September 1956.

b. Assistant and Associate Professor of Finance; Northwestern University; Evanston, Illinois; September 1960 to June 1965.

c. Associate Professor and Professor of Finance, University of Michigan; Ann Arbor, Michigan; June 1965 to July 1969 and September 1971 to March 1972.

d. Senior Economist and Special Assistant to the Chairman, Council of Economic Advisers to the President; August 1969 to August 1971.

e. Minister-Counselor for Economic Affairs, United States Mission to NATO; Brussels, Belgium; April 1972 to March 1973.

f. Assistant Secretary for Economic Affairs, Department of Commerce; June 1973 to July 1974.

g. Deputy Assistant to the President and Deputy to the Consellor for Economic Policy to the President; July 1974 to February 1975.

h. Counsellor to the Secretary and Assistant Secretary for Economic Policy, Department of the Treasury; October 1974 to January 1977.

i. Fellow, Woodrow Wilson International Center for Scholars, Smithsonian Institution; February 1977 to January 1978.

j. Assistant to the Board of Governors of the Federal Reserve System; February 1978 to December 1978.

k. Research Scholar, American Enterprise Institute for Public Policy Research, Washington, D.C.; January 1979 to September 1983.

l. Professorial Lecturer, The Georgetown University, Washington, D.C.; September 1978 to December 1982.

m. Visiting Professor; Dartmouth College; Hanover, New Hampshire; Winter Terms 1981, 1982, and 1983.

Government service

a. 1st Lt.; United States Army; Ft. Lee Virginia and Sierra Ordnance Depot, Herlong, California; August 1954 to September 1956.

b. Senior Economist and Special Assistant to the Chairman, Council of Economic Advisers to the President; August 1969 to August 1971.

c. Minister-Counselor for Economic Affairs, United States Mission to NATO; Brussels, Belgium; April 1972 to March 1973.

d. Assistant Secretary for Economic Affairs, Department of Commerce; June 1973 to July 1974.

e. Deputy Assistant to the President and Deputy to the Counsellor for Economic Policy to the President; July 1974 to February 1975.

f. Counsellor to the Secretary and Assistant Secretary for Economic Policy, Department of the Treasury; October 1974 to January 1977.

g. Assistant to the Board of Governors of the Federal Reserve System; February 1978 to December 1978.

h. Consultant, U.S. Agency for International Development, Washington, D.C., 1982–1983.

Memberships

a. Washington Policy Council, International Management and Development Institute, Washington, D.C.

b. Economic Advisory Board, National Savings and Loan League.

c. American Bankers Association Select Task Force on Inflation, 1980.

d. Trade and Investments Policy Committee Meeting, Fowler-McCracken Commission, International Management and Development Institute, Washington, D.C.

e. Member, American Economic Association Advisory Committee, Bureau of the Census.

Political affiliations and activities

a. Presidential appointee August 1969—January 1977.

b. Reagan Transition Policy Task Force on Inflation, 1980.

Honors and awards

Utah State University: Valedictorian, Graduating Class of 1954; Golden "A" Scholarship Award; Alpha Kappa Psi Scholarship Key; Phi Kappa Phi Scholastic Fraternity; Distinguished Military Student; Scabbard & Blade Honorary Military Society; Block "A" Varsity Athletics Letter in Tennis; Eric W. Ryberg Memorial Scholarship.

Stanford University: Henry Newell Honors Scholarship, 1956–1957; Honor Graduate from M.B.A. Program; Ford Foundation Pre-Doctoral Fellowship, 1958–59; McKinsey Foundation Research Assistant Grant, 1959; Ford Foundation Fellowship Renewal, 1959–60.

Ford Foundation Faculty Summer Research Grant for Harvard Graduate School of Business Administration Research Program.

Forum on finance, New York City, sponsored by the Joint Committee on Education of the American Securities Industry.

Nominated by student vote for Distinguished Teaching Award, Graduate School of Business Administration, The University of Michigan (5 nominated)

Stratford Seminar Brigham Young University, Honor Lecture.

Distinguished Alumni Award, Utah State University.

U.S. Representatives and Speaker, Alpbach European Forum, Alpbach, Austria.

United States Delegate to United Nations, European Economic and Social Commission, Geneva, Switzerland.

Research Institute of Asian Economics Lecture, Seoul, Korea.

National Bank of Egypt, Commemoration Lecture, Cairo, Egypt.

Foreign Service Institute Citation.

Brookings Institution Citation for Outstanding Contributions to their Advanced Study Program.

Treasury Department Exceptional Service Award

Honorary Graduate, U.S. Army War College, May 2, 1978.

Stratford Seminar, Brigham Young University, Honor Lecture.

Distinguished Bentsen Lecturer in Government/Business Relations at the Lyndon B. Johnson School of Public Affairs, the University of Texas at Austin, November 1982.

U.S. SENATE,
Washington, D.C., February 22, 1984.

Chairman BOB PACKWOOD,
Commerce, Science, and Transportation Committee,
Dirksen Senate Office Building,
Washington, D.C.

DEAR MR. CHAIRMAN: I am indeed pleased and honored to support the nomination of Sidney Lewis Jones to be Undersecretary of Commerce for Economic Affairs. He comes to this position with a most impressive background in the field of economics. I am, of course, pleased that this brilliant man received his initial education at Utah State University in Logan, Utah. It was the beginning of what was to become an illustrious career.

Mr. Jones has been involved in almost all facets of the economic world. He is a professor; served both the Nixon and Ford Administrations; was an Assistant to the Board of Governors of the Federal Reserve; a research scholar with the American Enterprise Institute for Public Policy Research; Minister-Counselor for Economic Affairs, U.S. Mission to NATO; and consultant to the U. S. Agency for International Development to name just a few. Indeed this vast experience makes him uniquely qualified for the undersecretary position with the Department of Commerce.

Mr. Chairman, I wholeheartedly endorse Mr. Jones for this position and feel he will be a welcome voice in this Administration and will assist in its efforts of continued economic recovery.

Sincerely,

JAKE GARN.

STATEMENT OF HON. CHARLES MCC. MATHIAS, JR., U.S. SENATOR FROM MARYLAND

Mr. Chairman, President Reagan is to be commended for nominating Dr. Sidney L. Jones to be Under Secretary of Commerce for Economic Affairs. Dr. Jones' distinguished academic record and years of dedicated government service amply qualify him for this position. His breadth and depth of experience gives him superb preparation to serve as principal economic advisor to the Department of Commerce. Having achieved distinction in both micro and macro economic analysis, Dr. Jones has also demonstrated in his academic and government careers a thorough appreciation of the international ramifications of U.S. domestic economic policies and the central importance of U.S. competitiveness in world markets to the long-term health of the U.S. economy.

I am particularly encouraged that Dr. Jones has prior experience in the Commerce Department, on the White House staff, and on U.S. overseas economic missions. Interagency economic policy coordination bedevils any administration and Dr. Jones' deep knowledge of the U.S. economic bureaucratic apparatus will serve him and the country well. Finally, Dr. Jones, although originally hailing from Utah, has demonstrated the remarkably good judgment to settle with his family in Maryland. Both he and the State of Maryland are no doubt better for it.

Senator PRESSLER. Mr. Margulies, the position for which you have been nominated—General Counsel—is one that requires great knowledge of not only the law, but of the wide array of issues within the jurisdiction of the Department. The General Counsel is responsible for all legal matters pertaining to the Department, including interpretation and enforcement of laws, as well as handling any suits or conflicts of interest involving the Department. Clearly, the General Counsel has responsibility in areas of vital interest to

all members of this committee, ranging from travel and tourism, to the National Weather Service, to telecommunications.

Mr. Margulies has spent more than 25 years as an attorney in the exectuve branch of the Federal Government—with the Department of Labor, The Department of Housing and Urban Development, and most recently with the Department of Commerce as Deputy General Counsel.

Mr. Margulies, it is my pleasure to welcome you on behalf of the committee, and at this time we will hear any statement that you would like to make.

STATEMENT OF IRVING PHILLIP MARGULIES

Mr. MARGULIES. I have no statement, Senator. I would like to say it is an honor for me to be here. I appreciate the opportunity very much.

[The biographical sketch and answers to questions of the committee follow:]

BIOGRAPHICAL SKETCH OF IRVING PHILLIP MARGULIES

Address: 9320 Judge Place, Gaithersburg, Maryland 20879.
Date and place of birth: June 9, 1925; New York, N.Y.
Marital Status: Married; Ruth (NMN) Goldman.
Name and ages of children: Joshua Margulies, 28; Jeremy Margulies, 26; Joseph Margulies, 23; Sarah Margulies, 21.

Education

Wayne University, Detroit, Michigan, 1945–1948, A.B., June 12, 1948.
Wayne University School of Law, Detroit, Michigan, 1948–1950, LL.B., June 15, 1950.
Princeton University, Princeton, New Jersey, 1967–1968, (Princeton Fellow in Public Affairs).

Employment record

Law Clerk, Honorable Raymond Starr, Grand Rapids, Michigan, August 1950–April 1952.
Wage Analyst, Wage Stabilization Board, Detroit, Michigan, April 1952–September 1952.
Self-employed, private practice of law, Detroit, Michigan, September 1952–April 1956.
Attorney, U.S. Department of Labor, Washington, D.C., April 1956–August 1961.
Attorney, U.S. Department of Housing and Urban Development, Washington, D.C., August 1961–March 1981.
a. Senior Legislative Attorney, 1961–1967
b. Assistant General Counsel for Legislation, 1967–1970
c. Associate General Counsel for Litigation, Administration and Equal Opportunity, 1970–1981
Deputy General Counsel, U.S. Department of Commerce, Washington, D.C., March 1981 to present.
Government experience: None.
Memberships: Federal Bar Association; District of Columbia Bar Association.
Political affiliations and activities: None.

Honors and awards

Presidential Award of the Rank of Meritorious Executive in the Senior Executive Service (1980).
U.S. Department of Housing and Urban Development's Distinguished Service Award (1979).
Federal Bar Association's Justice Thomas C. Clark Award to the Outstanding Career Lawyer (1978).
U.S. Department of Housing and Urban Development's Distinguished Service Award (1972).

Princeton Fellow in Public Affairs in Residence at Princeton University during the academic year 1967–1968.

Published writings: None.

QUESTION OF SENATOR PRESSLER FOR IRVING MARGULIES AND THE ANSWER THERETO

Question. A non-profit organization is attempting to establish a museum of in ventors and entrepreneurs in the Great Hall of the Hoover Department of Commerce Building. This project is being funded solely by private donations, with the hope of transferring operation of the museum to the Government once it is established. What legal considerations are involved in transferring the operation of the museum to the Government?

Answer. *Current ownership and status.*—The NIHF is a small museum containing exhibits and cabinet-modules of inventors and entrepreneurs. It is located in the lobby of Building 3 of the Department of Commerce Patent and Trademark Office (PTO) in Crystal City, Virginia, and is currently operated jointly by the PTO and the National Inventor's Hall of Fame Foundation (Foundation), a private non-profit organization. This arrangement is authorized pursuant to the Public Buildings Amendments of 1972 and the Public Buildings Cooperative Use Act of 1976, 40 U.S.C. §§ 490(a)(16)(17), 601a(a), 612a and Executive Order No. 12072, § 1–105, August 16, 1978. Admittance into the NIHF is free.

The Foundation presently owns, and will continue to own, the inventor-modules, the exhibits, the name "National Inventors Hall of Fame," and the medallion symbol. Additional modules, associated audio-visual display exhibits, and an overall theme exhibit to be developed, will be provided by the Foundation. The Foundation will continue in effect a property and casualty insurance policy for any damage, loss or theft of the modules and exhibits. This policy also contains liability provisions for injuries caused to individuals by the displays.

The Foundation provides, through a private contractor, internal maintenance to the exhibits and displays (changing bulbs and repairing modules). Rental of the lobby space, and charges for electricity, heating, air-conditioning, janitorial services, and security are provided from the general operating budget of PTO. Although not addressed in the Memorandum of Understanding between the Department and the Foundation, liability for personal injury to a visitor, if not caused by the displays would seem to lie with the Department under the Federal Tort Claims Act, 28 U.S.C. §§ 1346(b) *et seq.*

Pre-transfer considerations.—Since the Foundation will continue to own the modules, exhibits, name, and symbol, the transfer of the NIHF to the Great Hall in the Herbert C. Hoover Department of Commerce Building will be a physical move, not a legal transfer. Moving the NIHF to the Great Hall would offer the public a greater opportunity to view and appreciate the development of the United States systems for the protection of intellectual property, and is a goal advocated by both the Foundation and the Department.

The Great Hall currently houses the National Visitor Center, which is operated and maintained by the National Parks Service of the Department of the Interior. Interior Currently pays to GSA a Standard Level User Charge (SLUC) of approximately $220,000 per annum. This charge includes the cost of heating, lighting, air conditioning, security, and janitorial services. Although the Department of Commerce operates and maintains the Herbert C. Hoover Building, and a small part of the Great Hall, pursuant to the Delegation of Authority effective October 1, 1983, GSA retains ownership of the building.

To facilitate the move, a private non-profit organization, to be know as the Great Hall of Inventors and Industrial Developers Council (Council), is being formed to raise sufficient funds to add the additional displays and to renovate the Great Hall. It is estimated that approximately five million dollars will be necessary for the renovations and the move. The law firm of Barnett and Alagia is donating legal services on a pro bono basis to assist the Council in completing the project. As it is presently contemplated, funds for the project will be denoted to the Department of Commerce pursuant to the gift authority cantained in 40 U.S.C. § 1522 and Department of Commerce Administrative Orders 203–9 and 203–21.

My staff has met with Mr. Gerald J. Mossinghoff, Assistant Secretary and Commissioner, PTO, members and attorneys of the proposed Council, President of the Foundation, Mr. William Jenkins, Regional Real Estate Director of GSA, and Mr. Richard Hite, Principal Deputy Assistant Secretary, Policy, Budget, and Administration of the Department of the Interior. All parties have agreed in principle to the

transfer to the Great Hall, which will then jointly house the NIHF and the Visitor Center.

Renovations and related considerations.—Following a formal request by the Department of Commerce to GSA for the space assignment, and GSA's formal inquiry/notification to the Department of Interior, donated funds will then the transferred from Commerce to GSA since GSA must approve and undertake such projects. Funds may be transferred to GSA for a specific purpose, via the Treasury, pursuant to 15 U.S.C. § 1522. Provisions allowing GSA to undertake projects of this nature can be found at 40 U.S.C. §§ 490(a), 490(e), 601a(a), 602a(e), 603, 608, 611, 612a, 614; Executive Order No. 12072, August 16, 1978; 41 C.F.R. §§ 101-17.002, 101-19.501, 101-20.308, and 101-20.700.

Upon formal approval of the project by GSA, GSA will undertake the preliminary design planning and will present the plans to all involved parties for review. After the parties have agreed to the preliminary designs, GSA will sek the necessary approvals from, for example, the National Capital Planning Commission, the Fine Arts Commission and the Historic Preservation Advisiory Council. Questions concerning the jurisdiction of the Pennsylvania Avenue Development Corporation and the District of Columbia Government are being researched since one of the preliminary concepts calls for a glass enclosure to be added to the exterior of the building. At present, efforts are only being directed towards and interior renovation inasmuch as the approval process for exterior changes would take substantially more time.

GSA is also currently researching the issue of whether it must solicit competitive bids from architects and contractors, pursuant to 40 U.S.C. § 542 and related provisions, since part of these services may be donated. Sometime prior to the beginning of renovations, an agreement will be executed between Commerce, Interior, GSA, the Foundation and the Council to set out the rights, duties, and obligations of the respective parties.

Conclusion.—There are several legal considerations which are not presently resolved, but will be before the agreement is executed. These include whether the current "joint" arrangement between Commerce and the Foundation will continue. Most likely, since the Foundation owns the exhibits, they (or the Council) will retain responsibility for the exhibits, their internal maintenance, and property and casualty insurance. The Department of Commerce is considering providing adequate space, heating, cooling, electricity, janitorial and security services on a pro rata basis with the Department of Interior. Negotiations are still underway between the parties, however, and we have not ruled out the possibility that GSA may be willing to grant the Foundation a license for the space without requiring Commerce to pay a SLUC charge. GSA has already indicated that a non-revocable arrangement (for a minimum of ten years or more) for the use of the space by the NIHF is a strong probability. All of these options would be authorized by the authorities cited above.

It is unlikely that a fee will be charged for admission to the NIHF and Visitor Center at the new location. Still it is currently anticipated that on additional appropriations by Congress will be necessary to maintain the NIHF. The Department of Commerce and the other involved parties do not presently foresee any insurmountable legal impediments in moving the NIHF into the renovated Great Hall.

QUESTIONS OF SENATOR GORTON FOR IRVING MARGULIES AND THE ANSWERS THERETO

Question. Do you believe the domestic fishing industry should be able to count on the Department of Commerce to enforce fully and aggressively the terms of the Magnuson Act against state infringement of federal management authority?

Answer. The Department of Commerce recognizes its responsibility to enforce the Magnuson Act against the state infringement of federal management authority, and had acted accordingly. For example, in the recent case of *Southeastern Fisheries Association* v. *Livings*, 83-524-Civ.-SMA, U.S. District Court, Southern District of Florida, the State of Florida promulgated fishery management regulations which were inconsistent with the coastal migratory pelagic fishery management plan developed jointly by the South Atlantic and Gulf of Mexico Fishery Management Councils. Suit was brought on March 3, 1983, to overturn the Florida regulations, and the Department of Commerce moved to intervene on behalf of plaintiffs on March 5, 1983. Our motion was granted on March 7, 1983, and on that same date the court entered a TRO against the State of Florida. This case represents but one of the many instances in which the Commerce Department has fought against state infringement of federal management authority.

Question. Do you pledge your full support to the use of legal actions available to the Federal Government to ensure that federal fishery management activities under the Magnuson Fishery Conservation and Management Act are secure against the application of inconsistent state fishery management regulations?

Answer. I believe it is my responsibility as chief legal officer of the Commerce Department to ensure that federal fishery management activities under the Magnuson Act are protected against inconsistent state fishery laws. For example, acting under section 306 of the Magnuson Act, on May 22, 1982, the Commerce Department invoked its authority to preempt Oregon from opening its territorial waters to recreational salmon fishing in order to protect a federal closure of those waters from May 29, 1982 to June 12, 1982. The Commerce Department will continue to utilize those authorities available to it to assure the primacy of federal fishery management activities.

Question. In Secretary Baldrige's letter of March 7, 1984, to Senator Evans regarding the tanner crab litigation, the following statement is made: "If it appears necessary for the Federal Government to intervene in this proceeding to protect its legal position, I will see to it that a recommendation to that effect is made to the Justice Department."

If the Federal Government wants to protect its legal position, wouldn't it have been preferable to be an early intervenor in the litigation?

Answer. I agree that it would have been preferable to intervene in this case early in the litigation. However, this case was not brought to my attention until two days before it had been set down for a hearing for preliminary relief. I did not believe that the Department of Commerce could make a significant legal contribution to the ongoing legal proceedings on such short notice.

Question. When there is such a direct challenge to federal law and the role of the Department in fishery management, as occurred in this tanner crab case, why should the fishing industry be required to undertake the burden and costs of litigation with no support from the Federal Government?

Answer. In cases that present a direct challenge to federal law and threaten to set undesirable precedents regarding the role of the Department of Commerce in fishery management, the Department of Commerce should urge the Justice Department to play an active role in ongoing litigation to the extent necessary to support the position of the Federal Government. Private citizens should not be required to assume the burden and cost of litigation of issues that are of primary concern to the U.S. Government.

Question. If the course of the pending tanner crab case should change and a motion for summary judgment be brought this spring or early summer, will you seek to intervene?

Answer. I have recommended to Secretary Baldrige, and Secretary Baldrige has agreed, that if it appears necessary for the Federal Government to intervene in the tanner crab litigation, a recommendation to that effect will be made to the Justice Department. Please note, however, that I do not possess the authority to seek to intervene on behalf of the Federal Government in this litigation; that decision must ultimately be made and acted upon by the Justice Department.

Question. What do you believe should be the Federal Government's policy toward prosecuting foreign fishing vessels found to be violating our fishery management regulations?

Answer. The policy of the Federal Government should be, and is, to prosecute foreign or domestic fishing vessels found to be violating our fishery management regulations. The Department does not differentiate between foreign and domestic violators in the enforcement of our fishery laws. The particular remedy which we seek will vary, of course, with the magnitude of the violation. In serious cases, the relief we seek may range from revoking the violator's fishing permit to seizing his vessel; in less serious cases we may seek to impose a civil penalty.

QUESTIONS OF THE MINORITY FOR IRVING MARGULIES AND THE ANSWERS THERETO

Question. What role does the General Counsel play in setting the policies of the Department of Commerce?

Answer. The General Counsel does not directly set policies in the Department of Commerce. At Commerce, policies are established by the Secretary and the Deputy Secretary, working in close coordination with responsible program officials throughout the Department.

At the same time, the General Counsel is fully involved in providing relevant legal advice on policy decisions at all stages of their development. Our Office is con-

stantly brought into policy deliberations, and is fully relied upon for providing guidance in the authority of the Department and of its officers to undertake policy and program initiatives.

As stated in the Department's Manual of Orders, the General Counsel is the chief law officer of the Department, and legal adviser to the Secretary and all other officers. As such, the General Counsel provides legal advice, guidance and services on matters involving all components and programs of the Department (except the issuance of patents and the registration of trademarks).

In short, we do not establish policy; we guide its development within legal boundaries. We do not decide what will be done; we advise on what may be done under government statutory authorities.

Question. Are you planning to make any major changes in personnel or policies within the Office of the General Counsel?

Answer. No.

Question. With what issues, besides those assigned specifically to you by the Secretary, will you concern yourself in the near future?

Answer. One of my priorities in the near future would be to provide continuity in the level and quality of the Office of General Counsel's delivery of legal advice on established goals and initiatives of the Department and the Administration.

I will, for example, continue to devote significant personal attention to our ongoing efforts to deal with:

Import administration.—The General Counsel provides legal support to the International Trade Administration in connection with the administration of Countervailing Duty (CVD), Antidumping (AD) laws, Foreign Trade Zone Act, foreign excess property law. Significant issues within this office include:

Trade law reform: (1) H.R. 4784 (Gibbons); (2) S. 2128 (Heinz/TRAC).

Import penetration in failing domestic markets:

(1) Expanding CVD and AD cases initiated by United States Steel and other domestic steel producers.

(2) Application of countervailing duty law to non-market economy countries, i.e., Poland and Czechoslovakia.

(3) Negotiation of quantitative restraint agreements; i.e., Brazil, South Korea.

Recent decisions:

(1) *Florsheim Shoe Co. v. United States*—CIT ruling that section 751 reviews are prospective, that is, the net subsidy amount found during a 751 review has to be collected as a final duty on all entries made after the publication of the section 751 results and remains effective until the next 751 final review results are published. This ruling precludes retroactive collection or remittance of duties in variance to amounts determined by the previous section 751 review. Case has been appealed to the Court of Appeals for the Federal Circuit.

International Trade.—The General Counsel provides legal service and counsel to the International Trade Administration of the Department of Commerce on all matters involving international trade arrangements and practices, trade development, the Foreign Commercial Service, and export administration. Significant issues within this office include:

Technical data export controls. Leakage of sensitive technical data to proscribed foreign destinations is extensive. Export control needs to be exercised over sensitive emerging technologies in a way that gives the public adequate notice but does not itself disclose sensitive details. Also, the "militarily critical technologies list" needs to be translated from a classified internal document into regulations which can guide exporters.

Trade legislation: (1) United States-Israel free trade area; (2) Domestic Auto Content legislation (H.R. 1234).

Recent cases:

(1) *U.S. v. Core Labs, Inc.*—Action to enforce collection of civil penalties in antiboycott case. Case pending.

(2) *Nuclear Pacific v. Department of Commerce.*—Challenges actions of OEA, DOE, et al, in nuclear export licensing matters. Briefs filed; case pending.

(3) *Trane v. Baldrige, et al.*—Constitutional challenges to anitboycott provisions. Seventh Circuit affirmed district court's decision in favor of government (2/24/84).

Question. Does the administration—and do you—continue to support S. 121, the Trade Reorganization bill?

Answer. Secretary Baldrige made that clear in his February 21 testimony before the Senate Finance Committee's Subcommittee on International Trade. Trade means jobs. Trade problems are not going to go away. We have to bring together in one place the responsibility and capability for analyzing, developing and implement-

ing trade policy if we hope to be able to meet the demands of increasing worldwide competition. The so-called "honest broker" approach to trade is no longer enough.

That doesn't mean that every provision of the Trade Bill has our unqualified support. Among the provisions we find troublesome are those which (1) establish a statutory membership on the NSC, and (2) create a White House Council and Presidential adviser on trade matters.

Question. Will the administration work for scheduling and passage of S. 121 in the Senate this year?

Answer. Yes. The administration will seek a commitment from the Majority Leader for an early floor vote.

Question. Groups such as the American Bar Association, the National Conference of State Legislators, and the conference of Chief Justices oppose S. 44, a bill to create a Federal Product liability law, because they believe, among other things, that the legislation would not achieve uniformity. Do you think it would, and if so, how?

Answer. There are two types of uniformity at issue, Mr. Chairman. The first is uniformity of result; that is, getting the same results from the same facts, all the time. The second is uniformity of the legal standard by which the conduct of manufacturers and product users will be measured.

It is not the position of the Administration—nor has it been the position of the proponents of Federal product liability legislation—that the bill would achieve the same result in each and every product liability case. Although S. 44, if enacted, would be "federal law", it would be administered through the state court system (except in cases where federal jurisdiction would currently be found). I believe it is clear, that in 50 states, and in different regions of the country, you are going to find differing interpretations of the law. In my view, this is to be expected, and is both healthy and desirable. So, I do not anticipate there will be uniformity of result, and such uniformity is not the intent of the legislation.

However, Mr. Chairman, I do anticipate that enactment of the bill would provide additional uniformity in the legal standards applied by state and federal courts in this area. I believe that such uniformity would be beneficial.

S. 44 would establish a nationwide body of standards by which the conduct of manufacturers and product users would be judged. While there is no assurance that a uniform result would occur in every case, there is the certainty that the same body of law would be applied regardless of the jurisdiction in which the action is brought, or whether it is brought in state or federal court. This type of certainty is the goal of the bill and in my view the bill as drafted offers every promise of achieving this uniformity.

Since the publication of the Uniform Product Liability Act of 1977 by the Department of Commerce, only four states have enacted any portion of that draft statute—and these only in part. Twenty-seven other states have enacted unrelated product liability measures, none of them alike. Thus, disparities among the states as to the legal standards of conduct of manufacturers has significantly increased in recent years.

The principal by-product of these disparities has been increased legal and associated costs—"transactions costs"—resulting from the need to need to determine "what the law is" in the state where the action is brought. These transactions costs work against the interests of both manufacturers and product liability plaintiffs. For manufacturers, legal and insurance costs are driven up. These costs are passed on to the consuming public. Plaintiffs in product liability actions also experience higher costs with commensurately smaller benefits paid out. The American Insurance Association estimates that for every sixty-six cents a victim receives in product liability awards, another seventy-seven cents in spent in legal costs.

Government has an interest in the more efficient transfer of assets from one societal group to another, where society has determined that such a transfer is appropriate. There is no societal benefit in sustaining this level of transaction costs in product liability suits.

I should add, Mr. Chairman, that such uniformity cannot be achieved by the States acting alone. The record of the States to date clearly establishes this: moreover, it is not in the interest of any State to act first in this area. Two state governors have vetoed state product liability measures on this ground. These measures may limit the rights of consumers in the state, but would not help the state's manufacturers, whose products are sold in other states and who, therefore, would remain subject to the more onerous product liability laws of other states.

Therefore, in my view, product liability is an appropriate area for federal legislation. A uniform body of product liability law, which sets forth fairly and clearly the rights of manufacturers and consumers, is in the national interest.

Senator PRESSLER. We do have some questions for each of you or both of you here.

I have these questions for Mr. Jones. First of all, in my opening statement I mentioned some of the unique characteristics of rural State economies. I would be interested in your general thoughts on these differences and how you plan to deal with them in attempting to accurately reflect the economic health of individual States. I am especially interested in the underemployment problem I discussed earlier.

Mr. JONES. I think, Senator, one of the key aspects of economic growth, both in the United States and in Europe, will be increasingly in the services category. And here, as you may well know, we have instituted three major surveys of services. Two will be in the international area, one beginning with the services transfers through affiliates. We hope to get underway on that quite quickly; and the second, with a longer timeframe, will be the transfer of services through nonaffiliates.

Then, within our domestic economy we are reinstituting our surveys of services. We are not quite certain yet about the timing of the surveys, but we do anticipate broadening their coverage into the more new or more promising areas of computers, software, this type of activity.

I think the growth of the nonmetropolitan areas, which, as you well know, is more rapid than the metropolitan areas, will likely be based largely on services, and we intend to collect more information on that.

Senator PRESSLER. Yes. Whether it is upstate New York or some of the smaller cities in Louisiana or South Dakota, they are frequently left out of some of these Federal programs, or some of them are debatable whether they are worth being in, you might say. But it is a constant battle, but you are well attuned as you go into this new post, you are well attuned to some of these problems.

Do you plan to take any steps to familiarize yourself with what is happening that is unique in some of these smaller cities and towns?

Mr. JONES. Well, within the Bureau of the Census we have increased quite intensely the coverage of States and local statistical information. We are trying to get our sales and profit data down to this level so that we will serve as a marketing base or smaller firms will try to sell their goods and services in more rural areas.

Senator PRESSLER. Now, this concept of underemployment is something that is hard to measure. We have the unemployment figures which are relatively easy. There are probably a lot of States and a lot of individuals who will take a certain secondary job, and then there are other types of individuals who will not. They will say I either want to work at what I think my profession is, or I will collect welfare. I will not work.

But to the individual who is willing to take that other job—and I think many of our people in rural America are willing to take a wider range of jobs—then you have the concept of underemployment. And in so many of these formulas—and, of course, Congress writes the formulas, so it is Congress fault, and we frequently follow the advice on those detailed matters of people in your position.

What can we do to address this underemployment issue and somehow bring it into some of these formulas?

Mr. JONES. I think the key variable we have to be aware of is the rapid change in the demographic situation between now and the end of this century. The population's characteristics will change dramatically, and what was an underemployment and discouraged worker problem in the 1960's and 1970's may well, in some instances, be later tight markets in the 1980's as we have a significant decline in the number of teenagers and younger 20- to 24-year-old workers, and some decline in our 55- to 65-year-old category.

The 1980's should be a golden era, both as to productivity and output, because of these demographic changes. Then, once again, our concerns will focus in the 21st century when the children that we were worried about in the 1960's and 1970's now become retirees with a lower number of employees coming behind them because of the low birth rate of the late 1960's and early 1970's.

So the issue of underemployment, while extremely serious in a personal sense, in a macrosense may well begin to be alleviated as we move into this different demographic situation.

Senator PRESSLER. I am intrigued with that from a statistical point of view, and I am not arguing with you. But you feel that we are going to enter a time of greater prosperity because of the, well, the World War II baby boom is now——

Mr. JONES. Into the employment sector. They are in their productive years.

Senator PRESSLER. They are in the 30 to 40 age group, and then a few oldies like me who are over 40 who were still--well, let us see, 1945. The post-World War II baby boom would be what, 1945 to 1950?

Mr. JONES. It peaked in 1958. That was the very peak year.

Senator PRESSLER. So when we talk about—when economists speak of the World War II baby boom, we are talking about from 1945 to 1969?

Mr. JONES. About 1945 until about 1965 would be the baby boom.

Senator PRESSLER. That is the World War II baby boom, and they are now somewhere between 20 and 40 years of age, so they are in the social security paying brackets.

Now, what was the point you made about them?

Mr. JONES. They will become more productive because they are in the more trained period of their life, and they have not lost some of the skills which sometimes occurs in the 55 to 65 bracket. So we should have during the next 10 to 15 years a maximum productivity period and also a maximum savings period, because that age bracket of 25 to 55 is also the maximum source of personal savings.

The combination, then, should give us a better capital investment than we have had for 15 or 20 years, and should give us a more productive labor force. And we will avoid, hopefully, some of the difficulties of transition for the teenagers and the elderly as they enter into retirement. There will be fewer of them.

Senator PRESSLER. Then when that group gets into retirement, there will be a great burden as we move into the 21st century in terms of paying their social security, and it will be paid by a smaller demographic group. Is that basically true?

Mr. JONES. Exactly.

Senator PRESSLER. So the biggest problem will be trying to figure out the social security bill at that time. All of the actuarial tables I have seen, it looks almost impossible to meet demands as we know them today based upon—unless we discover some oil off of our coast or some untapped source of wealth, how are we going to do that? I mean should we be projecting better than we are?

Mr. JONES. It is not the projections so much as the assumptions that we use. It will work for the next 15 to 20 years because there will not be many of us retiring during that period. Beginning in 2010, the population will suddenly age and we will have over 13 percent will be over 65 years of age. By 2030 that figure will be over 20 percent, will be over 65 years of age, over 10 percent over 75, over 6 percent over 85. It will not be unusual to have retirees with their parents living with them.

Now, the crucial point here is that we would then, as you correctly noted, have coming behind them the so-called baby bust, which was not born from 1965 to date. We noted in 1972, for example, that the birth rate, which requires 2.1 births per woman to replace the population, dropped below that figure. And I have heard within the last hour that December 1983 represented the lowest month in birth rates that we have recorded. We have never returned back to the 2.1 births per woman which was typical of historical replacement.

And what this does mean then is that by 2030 we will have a flat population for normal growth, and by 2050, even with immigration, we will no longer have a growing population. This is typical of Europe, typical of every industrial country. What that means then is we must either have more productivity based upon capital investment technology and human resource development, or we will have to accept a lower standard of living, not only for the retired but for those who are working.

This may then require some consideration of new retirement ages and new benefits, new kinds of collections. But we are not facing that issue until 2010 or so when it comes upon us.

Senator PRESSLER. As Under Secretary of Commerce for Economic Affairs, I am sure you are well aware that the Secretary is charged with the Federal Government's role in tourism and travel, and that is something I am very interested in. In my State of South Dakota, tourism is our second largest industry.

Do you feel that that industry is something that in the future we can depend on in the sense that the only way we can make money on it is to have foreign tourists come to the United States? Of course, with the strength of the dollar currently, that is a little hard to do; but is that going to be a real source of revenue in terms of improving our balance of trade and increasing revenues for our country, or is that something that is artificial? Is it something that we should not count on?

Mr. JONES. That is a very important part of the services industry which, as you know, in 1983 was the only negative part of the national product statistics. We have historically been slightly in deficit, running $3 billion or $4 billion per year. And again, as you correctly noted, it is closely linked to the value of the dollar.

We can try to promote tourism, and we, as you know, in the Department of Commerce have various programs; but I think the crucial element is the value of the dollar, which of course is linked to our macroeconomic policies.

Senator PRESSLER. One valuable source of data on the tourism segment of the service sector which was eliminated was the National Travel Survey conducted jointly by the Bureau of the Census and the Department of Transportation. Given the importance of the travel and tourism industry and its prominence in the service sector, do you think it would be appropriate to reinstate the National Travel Survey?

Mr. JONES. Well, as you know, many of the surveys are undertaken by the Bureau of the Census, are done on a contract or reimbursable basis, and this happened to be one of them. When the million dollars was deleted from the Department of Transportation in 1982, it no longer was feasible for the Bureau of the Census, given our remaining assets or remaining resources, to undertake the survey.

I think if it were to be reinstituted, it would have to be by a decision of Congress directing the reimbursement of the Bureau of the Census to do that.

Senator PRESSLER. It is hard to come up with the money, is it not? Everybody is criticizing about studies; yet, some of this data if we do not have it, we wonder if we are making the right decision, and it becomes a difficult tradeoff.

This committee, the Commerce Committee, has approved legislation in the Services Industry Development Act to provide for a larger Federal commitment to service industries. I introduced this legislation because I feel the service industries, which account for nearly three-fourths of our economic activity, have been neglected by the Federal Government. There is currently very little data generated on the service sector of our economy.

Do you support this legislation, and will you work to see that it is passed?

Mr. JONES. I reviewed the legislation and was particularly impressed with the emphasis upon the collection of information, which, of course, does fall under my jurisdiction in the Bureau of Census and the Bureau of Economic Analysis.

To this degree we have initiated the three surveys that I mentioned earlier in my comments. The Department itself has not taken an official position yet, because we have not arrived at the formal clearance process.

Senator PRESSLER. I might address some of these questions to our next General Counsel over there.

The Senate has passed language in its NOAA authorization bill stating that no National Weather Service stations may be closed or consolidated until the Department has established procedures, including formal hearings, to evaluate any proposed closure or consolidation. Since this language is likely to become law, how will the Department handle proposed closures until the language does become law?

Mr. MARGULIES. I think there will be no closures.

Senator PRESSLER. It has been a real struggle as to what to do about those Weather Service stations, but Congress has decided

pretty clearly to keep them, to keep a national system. I know there is a lot of debate that you have not instituted, that you have not been responsible for; but I am sure your office will be key in terms of issuing a legal opinion on what the law means.

Another issue that is very much on the people's minds is that current law states that the Department cannot transfer ownership of the Landsat system without prior approval of the Congress. Given that the Department has issued a request for a proposal on the system, how far can the Department go in terms of evaluating proposals and negotiating a contract without further legislation? And this is related to something that is of great importance in my statement—the Aero Data Center—but also, there is a grave concern about whether we are falling behind the Japanese or the French with their spot-image satellite, and also, what impact this has upon national defense.

Are you up to speed on that? And what sort of opinions will you be rendering to the Secretary of Commerce?

Mr. MARGULIES. Well, my understanding of that issue is that the Secretary has been up here twice and has said that nothing will happen in terms of any transfer before he comes back and lays that before the committee with what he proposes to do. And he will need legislative approval before he can convey anything.

What the RFP does is to bring in proposals for the purchase. And we have told the Secretary that he may issue the RFP and he may consider what he wants to bring to Congress. That is how far he will go at the present, but there will be no transfer before there is congressional approval of a transfer.

Senator PRESSLER. I appreciate that very much, and I appreciate the support of the Secretary's position, because I think that is the intent of Congress, and I hope that it will be upheld. It is certainly the intent of this committee. And I think I can say that I am speaking for the committee and the Senate, at least based upon what we have done, and indeed, current law. And so we very much appreciate your interpretation on that.

Last year I discussed with Secretary of State Shultz the possibility of having the U.S. Travel and Tourism Administration train an employee for each U.S. Embassy to promote travel and tourism in the given nation. Are there any legal problems associated with having employees of one agency train employees of another?

Mr. MARGULIES. I am not certain. I do not know of any offhand. We have had arrangements like this before. I do not see any insurmountable problems.

Senator PRESSLER. How many attorneys do you have over there in the Department of Commerce legal counsel office?

Mr. MARGULIES. I think there are about 140 total.

Senator PRESSLER. Are you able to retain them? Do you hire them on a 4-year basis?

Mr. MARGULIES. Oh, no. Generally, they are permanent hires without any time period on their tenure. They are permanent employees.

Senator PRESSLER. And what is the turnover? Of course, I guess under the American system, people are in and out of government. I am concerned about the brief period of time of some of our assist-

ant secretaries and legal counsels, although that does not apply to you.

Mr. MARGULIES. These have been hard times for lawyers the last couple of years, and the turnover has gone down. I do not have the specific numbers for you, but my impression, having been there the last 3 years, is that we run a very low turnover. There is not an awful lot of turnover.

Senator PRESSLER. It is not like back when I finished law school in the early 1970's and lawyers could get a job any place then, because of the Vietnam War and all of the other things; but I guess that has changed now, and they are not quite so ready.

Mr. MARGULIES. There has been a dramatic change. We have outstanding applicants. There are many resumes piled up. It is a lot harder out there than it was.

Senator PRESSLER. What do you pay starting lawyers now, generally speaking?

Mr. MARGULIES. We bring them in at GS–9 now, absent some special qualifications. We are bringing them in out of school at the GS–9 level.

Senator PRESSLER. And what does that pay, roughly?

Mr. MARGULIES. I apologize. I cannot tell you that. Mr. Jones tells me it is about $20,000.

Senator PRESSLER. And then they go up a grade a year, is that right?

Mr. MARGULIES. No. We have a promotion policy which takes them to the 11 at the end of a year, and then whether or not the next promotion will be at a year or 18 months is a matter of discretion with the person they work for. Generally, it would be about an 18-month policy after the first promotion to grade 11.

Senator PRESSLER. So after 3 years, they could be up to, what, about a GS——

Mr. MARGULIES. The move to GS–13 is a fairly standard move. It is really the move between 13 and 14, which is our equivalent of a partnership decision.

Senator PRESSLER. That is about the same way it was back in the old days.

Do you feel that—of course, I guess the lawyers have to make opinions. You know, you have 140 lawyers over there in Commerce, and they have to give opinions and do a lot of work; that in this legalistic society and world are you able to match the lawyers on the outside in terms of these private firms here in Washington who represent the private clients who are up there? Are you able to hold your own?

Mr. MARGULIES. I think that we have a good staff.

Senator PRESSLER. I have a question here on contracting out, which I think comes from the majority side. Many Government functions are under review for possible contracting out to private operators. This is being done in accordance with OMB Circular A–76. Do you see potential liability questions or problems associated with this contracting in the event that contractors fail to properly carry out the functions in question?

Mr. MARGULIES. There is some concern with that. I cannot dredge up right now the precise area, but I think that Justice has a study underway for the executive branch in the area of the liability

of the various agencies on contracting out. I think it is an in-process thing right now.

Senator PRESSLER. I might ask Mr. Jones, now, do you have some economists to help you out? What kind of a staff do you have over there, and what do they cost you, these young economists who just come out of college?

Mr. JONES. Well, we have a very fine staff of professional economists spread through the Bureau of Economic Analysis, some within Census and then a fairly large group on my own personal staff.

We have, since I was Assistant Secretary of Commerce 10 years ago, it has been my experience to observe the change during the 10 years, and I would echo what my colleague has said. Our applicants now are of very superior quality, and indeed, because of the longevity and permanence of our staff, we just do not hire many people. If we were to hire them, I think they would also come in at about the 9 or the 10 level.

Senator PRESSLER. That is with a Ph. D. or a master's?

Mr. JONES. Yes, sir.

Senator PRESSLER. You require a Ph. D. for a GS–9?

Mr. JONES. It depends on whether they have more of a statistical orientation. A master's degree might be adequate, but in our general area, the Ph. D. is fairly common.

Senator PRESSLER. I guess things have tightened up substantially, and again, in my generation. And I did economics to the master's degree level, which is not considered an economist. It is just enough so that you are dangerous. But in those days there was a great shortage, and people were changing jobs and moving around, but things have settled down now.

Mr. JONES. That situation has changed dramatically as universities have run into this baby gap that we were discussing earlier. It is now a privilege to have a teaching position rather than simply a duty or a pasttime.

Senator PRESSLER. Then this leads to the question of Government salaries being low, which they are. And I might put this to both of you. At the entry level, and in getting the right people, are we able to—and I am concerned about this, because I want Government servants to be proud, and I am not one who has ever been in the business of kicking around civil servants—that is an easy thing to do—in speeches and so forth. But I am concerned that the Government keep a high quality of person to compete toe-to-toe with foreign countries, so that our Government is good, and does what is right, and is well informed, and with the best intentions. You have got to have some analytical abilities and some legal analysis to get these things done right for the Government, and also the private corporations that you evaluate or pass on for antitrust or pass on for lots of other things, or small business, treat them fairly and so forth. Policy questions, because we in Congress, believe me, we depend upon you people to tell us what is going on sometimes, and to tell us the development.

Are we keeping the right economists and are we keeping the right lawyers in Government long enough? Are we getting the right ones at the entry level? But is it the pay scale? And, of course, now things have settled down. People are not so nonchalant

about jobs, and they are a little harder to get and a little harder to keep, and there is a different attitude on campuses, too, I might say.

I was out speaking to several college campuses this winter, and it was quite different from when I was in college. There was not a single trick question. They were sincere, hard working students—maybe working too hard. Things have changed. So that has apparently changed in the job picture, too.

But overall, in your two shops and, of course, both of you have got very outstanding backgrounds; we are lucky to have you in Government. But I am talking about the people who back you up. Are we in pretty good shape there? I am sure you are going to say you have got excellent staffs and so forth. But I am talking in terms of your professional judgment here.

Mr. JONES. I am very satisfied with my own personal staff, as you indicated, but I am also concerned that we probably do underpay in the types of midcareer levels where a person has to make a judgment whether he will stay for 30 or 40 years, or whether he will use it only as a bridge to go out into the private world. Particularly where I was before at Treasury we had a very revolving door situation where people came and went in the Office of Tax Policy and in our specialty areas, and I think it has limited our capability in Government in general—and I am not speaking of my own personal situation—but in general, I think it has limited our ability to negotiate and in a sense compete with the career staffs of, say, Japan or the Federal Republic of Germany or Great Britain where they have had a very high status and career orientation toward government service. I think it is a national mistake we are making.

Senator PRESSLER. You think we are losing too many people at the upper end of the civil service?

Mr. JONES. By the upper end they have made a career decision of either idealism or patriotism or security or whatever motivates them to stay. We are losing people at the 14, 15, and 16 level in mid-career where they decide that they do not want to work at whatever it is, 10, 15, 20 percent below their opportunity cost that they could make on the outside.

Senator PRESSLER. Is that true in the legal area as well?

Mr. MARGULIES. I differ a little with Sid on that. The present scale I think is not bad. The dangers to a career service I think are these alternate freezes that come down and hang in for a period of time. During the life of this administration, the cap at the top has gone up some 30 percent. That has taken off some of the terrible compression you had before this administration came in.

The danger is that you establish a limit that sticks to congressional salaries, and then for some reasons, you cannot move that congressional limit, and everybody gets frozen at this level. That tends to have effects long after the cap is removed. That takes the 14, 15 and puts him very close to what the very top of the pyramid is getting, and it makes him wonder if there is any hope in hanging around. And it is during that period of time that you will get early retirements. Those who are at the top will get out as fast as they can. Economically, they have to. And the people that would be

moving to those jobs tend to leave because they feel that they are demeaned by their treatment.

The Government will not match Covington's pay scale and you cannot expect that as a lawyer. You stay in Government as a lawyer because you get to work with issues in Government that you will never see in the private sector, and you do that knowing full well that you are going to pay some price in terms of learned compensation.

The thing that hurts morale are those periods of freezes, which hurt very badly.

Senator PRESSLER. I noted that you spent a year at the Princeton Fellow in Public Affairs in residence at Princeton University, which is a great honor, and that is something that I think is good to have some of our people in Government doing. I am a great advocate of those kinds of programs.

Are there cuts in those kinds of programs, or are they still going on? Do we do enough of that, and what did you get out of your year at Princeton?

Mr. MARGULIES. That program has not been cut; it is still going on. And I think we do as much of that as we ever did. Those are outstanding programs. They are wonderful for the person that is selected to go. And I do honestly believe there is a great payoff for Government as the employer when the person comes back. In my personal experience, I got more done during my career the 3 years after that, after I called it a sabbatical, but after that sabbatical than I have ever done before.

And the ability to go there, to have new experiences, to play with new people, to have a look at new disciplines, was worth to me everything. And really, the sovereign got paid for it. The sovereign came out well on that deal.

Senator PRESSLER. Well, I wish there were a way that Senators and Congressmen could participate in such a program, because as we grind away down here, some of the people, you know, work intensely hard in the House and Senate, I believe. Nobody would believe that, but it is true. And I have seen people go 28 to 30 years at it without a break; and I think we would all be better off if we had a system that will allow something like that.

Well, I think we are lucky to have you both. I am honored to chair your hearing. And the minority has some questions for the record. There are some other letters for the files. And we thank you very much. These will probably go to the floor sometime next week, so barring some other unforeseen business, I thank you very much, and the committee stands adjourned.

[Whereupon, at 2:40 p.m., the committee was adjourned, subject to the call of the Chair.]

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